

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Tyler P. Wiss and Melody M.
McKenna,

Case No.: 22-CV-02047 (PJS/LIB)

Plaintiffs,

v.

Proctor Public Schools/Independent
School District #704, Derek B.
Parendo, John Doe Assistant Coaches
#1-5, and John E. Engelking,

Defendants.

**JOINT STATEMENT OF THE
CASE BY DEFENDANTS
PROCTOR PUBLIC SCHOOLS
AND JOHN ENGELKING**

Pursuant to the Court's November 15, 2022, Pretrial Scheduling Notice and Order, Defendants Proctor Public Schools, Independent School District No. 704, and John Engelking jointly submit the following Statement of the Case.

Proctor Public Schools is committed to an educational environment where all students feel welcome and safe. To that end, the School District implements long-standing anti-discrimination policies and takes appropriate disciplinary action in response to known misconduct by its students. Defendants did not engage in the wrongdoing alleged by Plaintiffs and are therefore not liable.

Plaintiffs have failed to establish a prima facie case of sex discrimination, whether it be under Title IX, Minn. Stat. § 363A.13, or the Equal Protection Clause. Among other fatal deficiencies, Plaintiffs have failed to demonstrate the School District had actual notice of the alleged misconduct against T.W. or that the School District acted with deliberate

indifference in responding to the incident. To the contrary, once aware, the School District conducted a timely and thorough investigation into the alleged misconduct.

Further, Plaintiffs have failed to demonstrate that the alleged misconduct toward T.W., although unacceptable to Defendants, was in any way motivated by T.W.'s sex or that it denied him an equal educational opportunity. The School District does not tolerate any form of sex-based discrimination and Plaintiffs can point to no custom, practice, or policy otherwise. Lastly, Defendants further invoke all applicable immunities available under statute and common law.

The various common law claims Plaintiffs attempt to advance against Defendants also fail, because, among other issues, the alleged conduct toward T.W. was not foreseeable. Even assuming the specific misconduct at issue here was foreseeable, the School District took reasonable measures in response. Defendants also dispute the nature and extent of Plaintiffs' asserted damages, if any. To the extent Plaintiffs can show damages, they are limited by state and federal law.

While Defendants have additional facts and defenses available beyond those set forth above, federal and state laws protecting the privacy of student and personnel data prevent Defendants from speaking to specific circumstances or actions at this time.

Dated: November 30, 2022

KENNEDY & GRAVEN, CHARTERED

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